IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O.No.840 of 1988 and
Cross-Objection No.28-CII of 1989
Date of decision : 25. 9.2006

Balbir Singh & another

.....Appellants

Vs.

Miss Sunita

....Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

.....

Present : None.

...

MAHESH GROVER, J.

F.A.O.No.840 of 1988

On 12.7.2006, the matter was taken up for hearing. No one appeared for the appellants and the matter was adjourned to 19.7.2006. On this date again no one appeared and the case was adjourned to 26.7.2006. No one put in appearance on 26.7.2006 as well and the case was again adjourned to 2.8.2006, in the interest of justice. Thereafter the case was taken up on 20.9.2006. The case was called over thrice during the course of day but no one has come present even today. Accordingly, the appeal is dismissed in default.

Cross-Objection No.28-CII of 1989

These cross-objections have been preferred by the claimant in F.A.O.No.840 of 1988 claiming enhanced compensation on account of the injuries sustained by her in an accident which took

place on 31.3.1987. The Tribunal awarded a sum of Rs.65,000/- in total i.e. Rs.30,000/- on account of pain and sufferings, Rs.10,000/- on account of medical treatment and other expenses, Rs.20,000/- for decreased marriage prospects and Rs.5,000/- for the loss of studies.

It has come in evidence that the claimant 's left leg and foot was crushed. She also had injuries on her left hand and elbow. There were multiple fractures on the foot and the leg bone. She had doubtful blood supply of the leg and foot. As a result of this injury amputation of the leg below knee had been advised but the claimant had opted for conservative treatment. After the treatment and at the time of discharge the claimant had fracture of leg bone with gap in the bones and a deformed foot. As per the opinion of the doctor, even with the further treatment the leg would be functionally not better than any 'artificial below limb'. The permanent disability was assessed to be 40%. It was also opined by the doctor that she would require special operation and would experience pain throughout her life.

The claimant was 18 years old at the time of the accident and as a result of the permanent disability, the marriage prospects and also her enjoyment in further life would have been affected adversely.

The settled law for assessing just and reasonable compensation payable to a victim of an accident is that the damages have to be assessed separately as pecuniary damages and special damages. The pecuniary damages are indeed capable of being calculated by simple arithmetical calculations but the compensation to

be awarded under the non-pecuniary damages is in the realm of the grey area of the law relating to damages which shall always remain a victim of conjectures. The non-pecuniary damages can be calculated under the following heads : (i) damages for mental and physical shock, pain and suffering already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters, i.e. , on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

Keeping in view the totality of the circumstances and the fact that the injured was a young girl of 18 years upon whom the fate has burdened a deformed foot which would have resulted in affecting her matrimonial prospects adversely, the amount of compensation awarded to her on account of pain and suffering and permanent disability is enhanced from Rs.30,000/- to Rs.50,000/- and under the head 'loss of marriage prospects' from Rs.20,000/- to Rs.50,000/-. Thus the amount of compensation awarded to the claimant/cross-objector is enhanced to Rs.1,15,000/-. The award of the Tribunal is modified accordingly. The claimant shall also be entitled to interest on the enhanced amount @7.5% per annum. The amount shall be paid along with interest calculated from the date of filing of the petition till the date of realisation.

With the aforesaid observations, the cross-objections are allowed.

25.9.2006 (MAHESH GROVER)
JUDGE

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